

**In the Matter of the Accusation
and Petition to Revoke Probation
Against:**

Case No. 800-2018-049419

Respondent

DCU32 (Rev 01-2019)

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8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

12 **MICHAEL ANTHONY SIMENTAL, M.D.**
13 **10800 Magnolia Avenue #2A**
Riverside, CA 92505

14 **Physician's and Surgeon's**
15 **Certificate No. A 86750,**

16 Respondent.

Case No. 800-2018-049419

OAH No. 2019020557

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Edward K. Kim,
24 Deputy Attorney General.

25 2. Michael Anthony Simental, M.D. (Respondent) is represented in this proceeding by
26 attorney Paul Joseph Spackman, whose address is: 28441 Highridge Road, Suite 201, Rolling
27 Hills Estates, CA 90274.

28 3. On or about April 14, 2004, the Board issued Physician's and Surgeon's Certificate

No. A 86750 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation and Petition to Revoke Probation No. 800-2018-049419, and will expire on February 29, 2020, unless renewed.

JURISDICTION

4. Accusation and Petition to Revoke Probation No. 800-2018-049419 was filed before the Board, and is currently pending against Respondent. The Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on December 18, 2018. Respondent timely filed his Notice of Defense contesting the Accusation and Petition to Revoke Probation.

5. A copy of Accusation and Petition to Revoke Probation No. 800-2018-049419 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation and Petition to Revoke Probation No. 800-2018-049419. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation and Petition to Revoke Probation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation and Petition to Revoke Probation No. 800-2018-049419, if proven at a hearing, constitute cause

1 for imposing discipline upon his Physician's and Surgeon's Certificate.

2 10. For the purpose of resolving the Accusation and Petition to Revoke Probation without
3 the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,
4 Complainant could establish a prima facie basis for the charges in the Accusation and Petition to
5 Revoke Probation, and that Respondent hereby gives up his right to contest those charges.

6 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
7 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
8 Disciplinary Order below.

9 12. Respondent agrees that if he ever petitions for early termination or modification of
10 probation, or if the Board ever petitions for revocation of probation, all of the charges and
11 allegations contained in Accusation No. 800-2018-049419 shall be deemed true, correct and fully
12 admitted by respondent for purposes of that proceeding or any other licensing proceeding
13 involving respondent in the State of California.

14 CONTINGENCY

15 13. This stipulation shall be subject to approval by the Medical Board of California.
16 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
17 Board of California may communicate directly with the Board regarding this stipulation and
18 settlement, without notice to or participation by Respondent or his counsel. By signing the
19 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
20 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
21 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
22 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
23 action between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

25 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
27 signatures thereto, shall have the same force and effect as the originals.

28 15. In consideration of the foregoing admissions and stipulations, the parties agree that

1 the Board may, without further notice or formal proceeding, issue and enter the following
2 Disciplinary Order:

3 **DISCIPLINARY ORDER**

4 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 86750 issued
5 to Respondent MICHAEL ANTHONY SIMENTAL, M.D. is revoked. However, the revocation
6 is stayed and Respondent is placed on probation for five (5) years on the following terms and
7 conditions.

8 1. **CONTROLLED SUBSTANCES - ABSTAIN FROM USE.** Respondent shall abstain
9 completely from the personal use or possession of controlled substances as defined in the
10 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
11 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
12 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
13 illness or condition.

14 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
15 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
16 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
17 telephone number.

18 If Respondent has a confirmed positive biological fluid test for any substance (whether or
19 not legally prescribed) and has not reported the use to the Board or its designee, Respondent
20 shall receive a notification from the Board or its designee to immediately cease the practice of
21 medicine. The Respondent shall not resume the practice of medicine until the final decision on an
22 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to
23 revoke probation shall be filed by the Board within 30 days of the notification to cease practice.
24 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
25 Board shall provide the Respondent with a hearing within 30 days of the request, unless the
26 Respondent stipulates to a later hearing. If the case is heard by an Administrative Law Judge
27 alone, he or she shall forward a Proposed Decision to the Board within 15 days of submission of
28 the matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed

1 decision, the Board shall issue its Decision, unless good cause can be shown for the delay. If the
2 case is heard by the Board, the Board shall issue its decision within 15 days of submission of the
3 case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,
4 non-adoption of the proposed decision, requests for reconsideration, remands and other
5 interlocutory orders issued by the Board. The cessation of practice shall not apply to the
6 reduction of the probationary time period.

7 If the Board does not file an accusation or petition to revoke probation within 30 days of the
8 issuance of the notification to cease practice or does not provide Respondent with a hearing
9 within 30 days of a such a request, the notification of cease practice shall be dissolved.

10 2. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
11 use of products or beverages containing alcohol.

12 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall
13 receive a notification from the Board or its designee to immediately cease the practice of
14 medicine. The Respondent shall not resume the practice of medicine until the final decision on an
15 accusation and/or a petition to revoke probation is effective. An accusation and/or petition to
16 revoke probation shall be filed by the Board within 30 days of the notification to cease practice.
17 If the Respondent requests a hearing on the accusation and/or petition to revoke probation, the
18 Board shall provide the Respondent with a hearing within 30 days of the request, unless the
19 Respondent stipulates to a later hearing. the case is heard by an Administrative Law Judge alone,
20 he or she shall forward a Proposed Decision to the Board within 15 days of submission of the
21 matter. Within 15 days of receipt by the Board of the Administrative Law Judge's proposed
22 decision, the Board shall issues its Decision, unless good cause can be shown for the delay. If the
23 case is heard by the Board, the Board shall issue its decision within 15 days of submission of the
24 case, unless good cause can be shown for the delay. Good cause includes, but is not limited to,
25 non-adoption of the proposed decision, requests for reconsideration, remands and other
26 interlocutory orders issued by the Board. The cessation of practice shall not apply to the
27 reduction of the probationary time period.

28 If the Board does not file an accusation or petition to revoke probation within 30 days of the

1 issuance of the notification to cease practice or does not provide Respondent with a hearing
2 within 30 days of such a request, the notification of cease practice shall be dissolved.

3 3. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to
4 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.
5 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair
6 follicle testing, or similar drug screening approved by the Board or its designee. Prior to
7 practicing medicine, Respondent shall contract with a laboratory or service approved in advance
8 by the Board or its designee that will conduct random, unannounced, observed, biological fluid
9 testing. The contract shall require results of the tests to be transmitted by the laboratory or
10 service directly to the Board or its designee within four hours of the results becoming available.
11 Respondent shall maintain this laboratory or service contract during the period of probation.

12 A certified copy of any laboratory test result may be received in evidence in any
13 proceedings between the Board and Respondent.

14 If Respondent fails to cooperate in a random biological fluid testing program within the
15 specified time frame, Respondent shall receive a notification from the Board or its designee to
16 immediately cease the practice of medicine. The Respondent shall not resume the practice of
17 medicine until the final decision on an accusation and/or a petition to revoke probation is
18 effective. An accusation and/or petition to revoke probation shall be filed by the Board within 30
19 days of the notification to cease practice. If the Respondent requests a hearing on the accusation
20 and/or petition to revoke probation, the Board shall provide the Respondent with a hearing within
21 30 days of the request, unless the Respondent stipulates to a later hearing. If the case is heard by
22 an Administrative Law Judge alone, he or she shall forward a Proposed Decision to the Board
23 within 15 days of submission of the matter. Within 15 days of receipt by the Board of the
24 Administrative Law Judge's proposed decision, the Board shall issue its Decision, unless good
25 cause can be shown for the delay. If the case is heard by the Board, the Board shall issue its
26 decision within 15 days of submission of the case, unless good cause can be shown for the delay.
27 Good cause includes, but is not limited to, non-adoption of the proposed decision, requests for
28 reconsideration, remands and other interlocutory orders issued by the Board. The cessation of

1 practice shall not apply to the reduction of the probationary time period.

2 If the Board does not file an accusation or petition to revoke probation within 15 days of the
3 issuance of the notification to cease practice or does not provide Respondent with a hearing
4 within 30 days of such a request, the notification of cease practice shall be dissolved.

5 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
6 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
7 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
8 Respondent shall participate in and successfully complete that program. Respondent shall
9 provide any information and documents that the program may deem pertinent. Respondent shall
10 successfully complete the classroom component of the program not later than six (6) months after
11 Respondent's initial enrollment, and the longitudinal component of the program not later than the
12 time specified by the program, but no later than one (1) year after attending the classroom
13 component. The professionalism program shall be at Respondent's expense and shall be in
14 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

15 A professionalism program taken after the acts that gave rise to the charges in the
16 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
17 or its designee, be accepted towards the fulfillment of this condition if the program would have
18 been approved by the Board or its designee had the program been taken after the effective date of
19 this Decision.

20 Respondent shall submit a certification of successful completion to the Board or its
21 designee not later than 15 calendar days after successfully completing the program or not later
22 than 15 calendar days after the effective date of the Decision, whichever is later.

23 5. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days
24 of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment
25 program approved in advance by the Board or its designee. Respondent shall successfully
26 complete the program not later than six (6) months after Respondent's initial enrollment unless
27 the Board or its designee agrees in writing to an extension of that time.

28 The program shall consist of a comprehensive assessment of Respondent's physical and

1 mental health and the six general domains of clinical competence as defined by the Accreditation
2 Council on Graduate Medical Education and American Board of Medical Specialties pertaining to
3 Respondent's current or intended area of practice. The program shall take into account data
4 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
5 Accusation(s), and any other information that the Board or its designee deems relevant. The
6 program shall require Respondent's on-site participation for a minimum of three (3) and no more
7 than five (5) days as determined by the program for the assessment and clinical education
8 evaluation. Respondent shall pay all expenses associated with the clinical competence
9 assessment program.

10 At the end of the evaluation, the program will submit a report to the Board or its designee
11 which unequivocally states whether the Respondent has demonstrated the ability to practice
12 safely and independently. Based on Respondent's performance on the clinical competence
13 assessment, the program will advise the Board or its designee of its recommendation(s) for the
14 scope and length of any additional educational or clinical training, evaluation or treatment for any
15 medical condition or psychological condition, or anything else affecting Respondent's practice of
16 medicine. Respondent shall comply with the program's recommendations.

17 Determination as to whether Respondent successfully completed the clinical competence
18 assessment program is solely within the program's jurisdiction.

19 If Respondent fails to enroll, participate in, or successfully complete the clinical
20 competence assessment program within the designated time period, Respondent shall receive a
21 notification from the Board or its designee to cease the practice of medicine within three (3)
22 calendar days after being so notified. The Respondent shall not resume the practice of medicine
23 until enrollment or participation in the outstanding portions of the clinical competence assessment
24 program have been completed. If the Respondent did not successfully complete the clinical
25 competence assessment program, the Respondent shall not resume the practice of medicine until a
26 final decision has been rendered on the accusation and/or a petition to revoke probation. The
27 cessation of practice shall not apply to the reduction of the probationary time period.

28 6. PSYCHIATRIC EVALUATION. Within 30 calendar days of the effective date of

1 this Decision, and on whatever periodic basis thereafter may be required by the Board or its
2 designee, Respondent shall undergo and complete a psychiatric evaluation (and psychological
3 testing, if deemed necessary) by a Board-appointed board certified psychiatrist, who shall
4 consider any information provided by the Board or designee and any other information the
5 psychiatrist deems relevant, and shall furnish a written evaluation report to the Board or its
6 designee. Psychiatric evaluations conducted prior to the effective date of the Decision shall not
7 be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all
8 psychiatric evaluations and psychological testing.

9 Respondent shall comply with all restrictions or conditions recommended by the evaluating
10 psychiatrist within 15 calendar days after being notified by the Board or its designee.

11 Respondent shall not engage in the practice of medicine until notified by the Board or its
12 designee that Respondent is mentally fit to practice medicine safely. The period of time that
13 Respondent is not practicing medicine shall not be counted toward completion of the term of
14 probation.

15 7. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,
16 Respondent shall submit to the Board or its designee for prior approval the name and
17 qualifications of a California-licensed psychiatrist or licensed psychologist who has a doctoral
18 degree in psychology and at least five years of postgraduate experience in the diagnosis and
19 treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and
20 continue psychotherapy treatment, including any modifications to the frequency of
21 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

22 The psychotherapist shall consider any information provided by the Board or its designee
23 and any other information the psychotherapist deems relevant and shall furnish a written
24 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
25 psychotherapist with any information and documents that the psychotherapist may deem
26 pertinent. Respondent shall have the treating psychotherapist submit quarterly status reports to
27 the Board or its designee. The Board or its designee may require Respondent to undergo and
28 continue psychotherapy treatment and/or undergo psychiatric evaluations by a Board approved

1 and appointed board certified psychiatrist. If, prior to the completion of probation, Respondent is
2 found to be mentally unfit to resume the practice of medicine without restrictions, the Board shall
3 retain continuing jurisdiction over Respondent's license and the period of probation shall be
4 extended until the Board determines that Respondent is mentally fit to resume the practice of
5 medicine without restrictions.

6 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7 8. MEDICAL EVALUATION AND TREATMENT. Within 30 calendar days of the
8 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
9 or its designee, Respondent shall undergo a medical evaluation by a Board-appointed physician
10 who shall consider any information provided by the Board or designee and any other information
11 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
12 designee. Respondent shall provide the evaluating physician with any information and
13 documentation that the evaluating physician may deem pertinent.

14 Following the evaluation, Respondent shall comply with all restrictions or conditions
15 recommended by the evaluating physician within 15 calendar days after being notified by the
16 Board or its designee. If Respondent is required by the Board or its designee to undergo medical
17 treatment, Respondent shall within 30 calendar days of the requirement notice, submit to the
18 Board or its designee for prior approval the name and qualifications of a California licensed
19 treating physician of Respondent's choice. Upon approval of the treating physician, Respondent
20 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
21 further notice from the Board or its designee.

22 The treating physician shall consider any information provided by the Board or its designee
23 or any other information the treating physician may deem pertinent prior to commencement of
24 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
25 its designee indicating whether or not the Respondent is capable of practicing medicine safely.
26 Respondent shall provide the Board or its designee with any and all medical records pertaining to
27 treatment that the Board or its designee deems necessary.

28 If, prior to the completion of probation, Respondent is found to be physically incapable of

1 resuming the practice of medicine without restrictions, the Board shall retain continuing
2 jurisdiction over Respondent's license and the period of probation shall be extended until the
3 Board determines that Respondent is physically capable of resuming the practice of medicine
4 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

5 Respondent shall not engage in the practice of medicine until notified in writing by the
6 Board or its designee of its determination that Respondent is medically fit to practice safely.

7 9. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
8 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
9 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
10 licenses are valid and in good standing, and who are preferably American Board of Medical
11 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
12 relationship with Respondent, or other relationship that could reasonably be expected to
13 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
14 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
15 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

16 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
17 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
18 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
19 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
20 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
21 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
22 signed statement for approval by the Board or its designee.

23 Within 60 calendar days of the effective date of this Decision, and continuing throughout
24 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
25 make all records available for immediate inspection and copying on the premises by the monitor
26 at all times during business hours and shall retain the records for the entire term of probation.

27 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
28 date of this Decision, Respondent shall receive a notification from the Board or its designee to

1 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
2 shall cease the practice of medicine until a monitor is approved to provide monitoring
3 responsibility.

4 The monitor(s) shall submit a quarterly written report to the Board or its designee which
5 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
6 are within the standards of practice of medicine, and whether Respondent is practicing medicine
7 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
8 that the monitor submits the quarterly written reports to the Board or its designee within 10
9 calendar days after the end of the preceding quarter.

10 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
11 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
12 name and qualifications of a replacement monitor who will be assuming that responsibility within
13 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
14 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
15 notification from the Board or its designee to cease the practice of medicine within three (3)
16 calendar days after being so notified. Respondent shall cease the practice of medicine until a
17 replacement monitor is approved and assumes monitoring responsibility.

18 In lieu of a monitor, Respondent may participate in a professional enhancement program
19 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
20 review, semi-annual practice assessment, and semi-annual review of professional growth and
21 education. Respondent shall participate in the professional enhancement program at Respondent's
22 expense during the term of probation.

23 This Condition 9 of probation (practice monitoring) shall remain in effect only during the
24 three-year period following the effective date of this Stipulated Settlement and Disciplinary
25 Order, provided that Respondent has been in compliance with all terms and conditions of
26 probation hereunder during the probationary term and provided further that this paragraph is
27 subject to any recommendations by a Board evaluator pursuant to Conditions 6 and 8.

28 10. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the

1 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
2 where: 1) Respondent merely shares office space with another physician but is not affiliated for
3 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
4 location.

5 If Respondent fails to establish a practice with another physician or secure employment in
6 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
7 Respondent shall receive a notification from the Board or its designee to cease the practice of
8 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
9 practice until an appropriate practice setting is established.

10 If, during the course of the probation, the Respondent's practice setting changes and the
11 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
12 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
13 If Respondent fails to establish a practice with another physician or secure employment in an
14 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
15 shall receive a notification from the Board or its designee to cease the practice of medicine within
16 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
17 appropriate practice setting is established.

18 11. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
19 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
20 Chief Executive Officer at every hospital where privileges or membership are extended to
21 Respondent, at any other facility where Respondent engages in the practice of medicine,
22 including all physician and locum tenens registries or other similar agencies, and to the Chief
23 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
24 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
25 calendar days.

26 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

27 12. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
28 governing the practice of medicine in California and remain in full compliance with any court

ordered criminal probation, payments, and other orders.

13. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

14. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of

1 departure and return.

2 15. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
3 available in person upon request for interviews either at Respondent's place of business or at the
4 probation unit office, with or without prior notice throughout the term of probation.

5 16. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
6 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
7 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
8 defined as any period of time Respondent is not practicing medicine as defined in Business and
9 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
10 patient care, clinical activity or teaching, or other activity as approved by the Board. If
11 Respondent resides in California and is considered to be in non-practice, Respondent shall
12 comply with all terms and conditions of probation. All time spent in an intensive training
13 program which has been approved by the Board or its designee shall not be considered non-
14 practice and does not relieve Respondent from complying with all the terms and conditions of
15 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
16 on probation with the medical licensing authority of that state or jurisdiction shall not be
17 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
18 period of non-practice.

19 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
20 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
21 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
22 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
23 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

24 Respondent's period of non-practice while on probation shall not exceed two (2) years.

25 Periods of non-practice will not apply to the reduction of the probationary term.

26 Periods of non-practice for a Respondent residing outside of California will relieve
27 Respondent of the responsibility to comply with the probationary terms and conditions with the
28 exception of this condition and the following terms and conditions of probation: Obey All Laws;

1 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
2 Controlled Substances; and Biological Fluid Testing..

3 17. COMPLETION OF PROBATION. Respondent shall comply with all financial
4 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
5 completion of probation. Upon successful completion of probation, Respondent's certificate shall
6 be fully restored.

7 18. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
8 of probation is a violation of probation. If Respondent violates probation in any respect, the
9 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
10 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
11 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
12 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
13 the matter is final.

14 19. LICENSE SURRENDER. Following the effective date of this Decision, if
15 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
16 the terms and conditions of probation, Respondent may request to surrender his or her license.
17 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
18 determining whether or not to grant the request, or to take any other action deemed appropriate
19 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
20 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
21 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
22 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
23 application shall be treated as a petition for reinstatement of a revoked certificate.

24 20. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
25 with probation monitoring each and every year of probation, as designated by the Board, which
26 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
27 California and delivered to the Board or its designee no later than January 31 of each calendar
28 year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Paul Joseph Spackman. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

6/5/2019 

MICHAEL ANTHONY SIMENTAL, M.D.
Respondent

I have read and fully discussed with Respondent MICHAEL ANTHONY SIMENTAL, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

6/6/2019 

PAUL JOSEPH SPACKMAN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED:

6/7/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
E. A. JONES III
Supervising Deputy Attorney General



EDWARD KIM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. 800-2018-049419

1 KAMALA D. HARRIS
Attorney General of California
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Supervising Deputy Attorney General
3 EDWARD KIM
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4 State Bar No. 195729
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Dec 18 20 18
BY Jana Pasion ANALYST

8 BEFORE THE
MEDICAL BOARD OF CALIFORNIA
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

12 **Michael A. Simental, M.D.**
13 **10800 Magnolia Avenue, #2A**
14 **Riverside, California 92505**

15 **Physician's and Surgeon's**
16 **Certificate Number A 86750,**

Respondent.

Case No. 800-2018-049419

ACCUSATION AND
PETITION TO REVOKE
PROBATION

17
18 Complainant alleges:

19 PARTIES

20 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation and Petition to Revoke
21 Probation (hereinafter, "Accusation") solely in her official capacity as the Executive Director of
22 the Medical Board of California, Department of Consumer Affairs ("Board").

23 2. On or about April 14, 2004, the Board issued Physician's and Surgeon's
24 Certificate Number A 86750 to Michael A. Simental, M.D. ("Respondent"). The Physician's and
25 Surgeon's Certificate was in effect at all times relevant to the charges brought herein and will
26 expire on February 29, 2020, unless renewed.

27 JURISDICTION

28 3. This Accusation is brought before the Board under the authority of the following

1 laws. All section references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2004 of the Code states:

3 "The board shall have the responsibility for the following:

4 "(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice
5 Act.

6 "(b) The administration and hearing of disciplinary actions.

7 "(c) Carrying out disciplinary actions appropriate to findings made by a panel or an
8 administrative law judge.

9 "(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of
10 disciplinary actions.

11 "(e) Reviewing the quality of medical practice carried out by physician and surgeon
12 certificate holders under the jurisdiction of the board.

13 "..."

14 5. Section 2227 of the Code provides that a licensee who is found guilty under the
15 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
16 one year, placed on probation and required to pay the costs of probation monitoring, or such other
17 action taken in relation to discipline as the Board deems proper.

18 6. Section 2234 of the Code, states:

19 "The board shall take action against any licensee who is charged with unprofessional
20 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
21 limited to, the following:

22 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
23 violation of, or conspiring to violate any provision of this chapter.

24 "..."

25 7. Section 2242 of the Code states:

26 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
27 without an appropriate prior examination and a medical indication, constitutes unprofessional
28 conduct.

1 "..."

2 8. Section 822 of the Code states:

3 "If a licensing agency determines that its licensee's ability to practice his or her profession
4 safely is impaired because the licensee is mentally ill, or physically ill affecting competency, the
5 licensing agency may take action by any one of the following methods:

6 "(a) Revoking the licensee's certificate or license.

7 "(b) Suspending the licensee's right to practice.

8 "(c) Placing the licensee on probation.

9 "(d) Taking such other action in relation to the licensee as the licensing agency in its
10 discretion deems proper.

11 "The licensing agency shall not reinstate a revoked or suspended certificate or license until
12 it has received competent evidence of the absence or control of the condition which caused its
13 action and until it is satisfied that with due regard for the public health and safety the person's
14 right to practice his or her profession may be safely reinstated."

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Impaired Ability to Practice Medicine)**

17 9. Respondent is subject to disciplinary action under section 822 of the Code in that his
18 ability to practice medicine is impaired due to mental and/or physical illness. The circumstances
19 are as follows:

20 10. On or about November 24, 2018, the Corona Police Department dispatched police
21 officers to Respondent's home in the City of Corona. The police officers responded to an incident
22 call indicating that Respondent threw things around his home, claimed that police were watching
23 him, and ran outside in front of his house naked and that his house was on fire. Upon arriving on
24 scene, a police officer saw Respondent lying naked on the street one house south from his
25 residence. Respondent had blood on both of his arms and was bleeding from several areas of his
26 body. His knees appeared to be injured as well. The police officer told Respondent to stay on the
27 ground and roll onto his stomach. He initially complied with the instructions, but then rolled onto
28 his back. The officer did not want Respondent to return to the inside of his home because there

1 was smoke coming out of his front door. While he was grabbing his penis, Respondent stated that
2 he wanted the officer to shoot and kill Respondent. Respondent was later handcuffed. Based
3 upon the observations of the officers, he was placed on a safety hold pursuant to Welfare and
4 Institutions Code section 5150 and transported to a hospital. Respondent also told an officer at
5 the hospital that he was a sniper and that he was going to shoot people with weapons he had
6 already hidden at a tower.

7 11. The fire department also arrived on scene to extinguish the fire at Respondent's
8 residence and observed several items thrown about the house and several firearms. Once it was
9 safe, police officers entered Respondent's home, and noticed that it appeared that paper work was
10 placed on a stove top and that the burners were ignited. The entire house appeared to be
11 ransacked as well. It appeared that items were thrown against the walls. In addition, the police
12 officers located several firearms located in the upstairs bedroom in plain view, including semi-
13 automatic rifles, bolt action rifles, semi-automatic handguns and revolvers. These firearms were
14 in different calibers including .338, .308, .22, 45, 9 mm, and 5.56 mm. Several of these firearms
15 appeared to be new and were still wrapped in plastic and there were two that had attached scopes.
16 There was also a bullet press (to make ammunition), both pistol and rifle powder and several
17 thousand rounds of boxed ammunition, and a tactical style vest that could carry several gun
18 magazines. There was also one Safariland ballistic vest and a few handgun holsters. Throughout
19 the residence there were medical kits and books/magazines about shooting, guns and snipers. In
20 addition, a record check found that Respondent had other unaccounted firearms.

21 SECOND CAUSE FOR DISCIPLINE

22 (General Unprofessional Conduct)

23 12. Respondent is subject to disciplinary action under Code section 2234, in that his
24 actions and/or omissions represent unprofessional conduct, generally. The circumstances are as
25 follows:

26 13. The allegations of the First Cause for Discipline are incorporated herein by reference
27 as if fully set forth.

28 ///

1 **CAUSE TO REVOKE PROBATION**

2 (Violation of Order; Failure to Obey All Laws)

3 14. Respondent is subject to revocation of his probationary order in that he violated
4 paragraph 4 of his disciplinary order effective on or about December 22, 2016, in the disciplinary
5 action entitled, "In the Matter of the Accusation Against Michael Anthony Simental, M.D."
6 before the Medical Board of California, in Case No. 18-2012-226103, wherein Respondent's
7 license was revoked, the revocation was stayed and Respondent was placed on probation, in that
8 he committed unprofessional conduct by failing to obey all applicable laws. The circumstances
9 are as follows:

10 15. At all times after the effective date of Respondent's probation, Condition Number 4,
11 of his disciplinary order stated in relevant part:

12 "OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
13 governing the practice of medicine in California and remain in full compliance with any
14 court ordered criminal probation, payments, and other orders."

15 16. Respondent violated the Medical Practice Act as alleged above in paragraphs 9
16 through 13.

17 **DISCIPLINE CONSIDERATIONS**

18 17. To determine the degree of discipline, if any, to be imposed on Respondent,
19 Complainant alleges that effective on or about December 22, 2016, in a prior disciplinary action
20 entitled, "In the Matter of the Accusation Against Michael Anthony Simental, M.D." before the
21 Medical Board of California, in Case No. 18-2012-226103, Respondent's license was revoked,
22 the revocation was stayed and Respondent was placed on probation for two years in connection
23 with gross negligence, repeated negligent acts and excessive prescribing in the care and treatment
24 of patients. That decision is now final and is incorporated by reference as if fully set forth.

25 **PRAVER**

26 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Medical Board of California issue a decision:

28 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 86750;

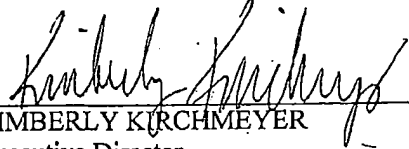
1 issued to Michael A. Simental, M.D.;

2 2. Revoking, suspending or denying approval of Michael A. Simental, M.D.'s authority
3 to supervise physician assistants and advanced practice nurses, pursuant to Section 3527 of the
4 Code;

5 3. Ordering Michael A. Simental, M.D., if placed on probation, to pay the Medical
6 Board of California the costs of probation monitoring; and

7 4. Taking such other and further action as deemed necessary and proper.

8
9 DATED: December 18, 2018


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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